



## **DEPARTMENT OF AGRICULTURE**

### **Agricultural Marketing Service**

#### **7 CFR Part 205**

**[Document Number AMS-NOP-16-0001; NOP-15-13]**

### **National Organic Program: USDA Organic Regulations**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Notice of 2016 Sunset Review.

**SUMMARY:** This document addresses the 2016 Sunset Review submitted to the Secretary of Agriculture (Secretary) through the Agricultural Marketing Service's (AMS) National Organic Program (NOP) by the National Organic Standards Board (NOSB) following the NOSB's October 2014 and April 2015 meetings. The 2016 Sunset Review pertains to the NOSB's review of the need for the continued allowance for seven substances on the U.S. Department of Agriculture's (USDA) National List of Allowed and Prohibited Substances (National List). Consistent with the NOSB's review, this publication provides notice on the renewal of five synthetic and two nonsynthetic substances on the National List, along with any restrictive annotations. For substances that have been renewed on the National List, this document completes the 2016 National List Sunset Process.

**DATES:** This document is effective September 12, 2016.

**FOR FURTHER INFORMATION CONTACT:** Requests for a copy of this document should be sent to Robert Pooler, Standards Division, National Organic Program, USDA-AMS-NOP, 1400 Independence Ave., SW., Room 2642-S., Ag Stop 0268, Washington, DC 20250-0268. Telephone: (202) 720-3252. Email: [bob.pooler@ams.usda.gov](mailto:bob.pooler@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** The National Organic Program (NOP) is authorized by the Organic Foods Protection Act (OFPA) of 1990, as amended (7 U.S.C. 6501 - 6522). The USDA Agricultural Marketing Service (AMS) administers the NOP. Final regulations implementing the NOP, also referred to as the USDA organic regulations, were published December 21, 2000 (65 FR 80548), and became effective on October 21, 2002. Through these regulations, the AMS oversees national standards for the production, handling, and labeling of organically produced agricultural products. Since becoming effective, the USDA organic regulations have been frequently amended, mostly for changes to the National List in 7 CFR 205.601 – 205.606.

This National List identifies the synthetic substances that may be used and the nonsynthetic (natural) substances that may not be used in organic production. The National List also identifies synthetic, nonsynthetic nonagricultural, and nonorganic agricultural substances that may be used in organic handling. The OFPA and the USDA organic regulations, as indicated in § 205.105, specifically prohibit the use of any synthetic substance in organic production and handling unless the synthetic substance is on the National List. Section 205.105 also requires that any nonorganic agricultural substance, and any nonsynthetic nonagricultural substance used in organic handling appear on the National List.

As stipulated by OFPA, recommendations to propose or amend the National List are developed by the NOSB, operating in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2 et seq.), to assist in the evaluation of substances to be used or not used in organic production and handling, and to advise the Secretary on the USDA organic regulations. OFPA also requires a review of all substances included on the National List within 5 years of their addition to or renewal on the list. If a listed substance is not reviewed by NOSB and renewed by

USDA within the five year period, its allowance or prohibition on the National List is no longer in effect. The NOSB sunset review includes considering any new information pertaining to a substance’s impact on human health and the environment, its necessity, and its compatibility with organic production and handling.

To implement the sunset review requirement, AMS initially published an advanced notice of proposed rulemaking on the National List sunset review process on June 17, 2005 (70 FR 35177). This document described the process used by the NOSB to complete their responsibility to review National List substances within the OFPA required five year period.

AMS published a revised sunset review process in the Federal Register on September 16, 2013 (78 FR 56811). This revised process provides public notice on the renewal of National List substances. This renewal occurs after the NOSB review.

At its October 2014, and April 2015 public meetings, the NOSB considered seven substances that were added to or continued on the National List after sunset review in 2011. AMS has reviewed and accepted the NOSB sunset review and recommendations. Substances in Table 1 having final actions of “renew” will continue to be listed on the National List and will be included in their next sunset review (Sunset Review 2021).

**Table 1: Overview of Final Action for Sunset 2016**

<b>National List Section</b>	<b>Substance Listing</b>	<b>Final Action</b>
Synthetic substances allowed for use in organic crop production		
§ 205.601(h)	As slug or snail bait. Ferric phosphate (CAS # 10045-86-0).	Renew
§ 205.601(n)	Seed preparations. Hydrogen chloride (CAS # 7647-01-0)—for delinting cotton seed for planting.	Renew
Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as “organic” or “made with organic (specified ingredients or food group(s)).”		
§205.605(a)	L – malic acid (CAS # 97-67-6).	Renew

§ 205.605(a)	Microorganisms—any food grade bacteria, fungi, and other microorganism.	Renew
§ 205.605(b)	Activated charcoal (CAS #s 7440-44-0; 64365-11-3)—only from vegetative sources; for use only as a filtering aid.	Renew
§ 205.605(b)	Peracetic acid/Peroxyacetic acid (CAS # 79-21-0)—for use in wash and/or rinse water according to FDA limitations. For use as a sanitizer on food contact surfaces.	Renew
§ 205.605(b)	Sodium acid pyrophosphate (CAS # 7758-16-9)—for use only as a leavening agent.	Renew

**Authority:** 7 U.S.C. 6501–6522.

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